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EXAMINER

TRUONG, LECHI

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/611,622

Applicant(s)

MECKENSTOCK ET AL. 

Examiner

LeChi Truong

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 2-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1- 4, 7-22 are presented for examination. Claims 5 and 6 are cancelled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

b. The claim language in the following claims is not clearly understood:

(i) As to claim 22, it is not clearly indicated the step of determining. The determining step must be separated for each point sale of device or must be in the sequence such that one step of determining must be followed by another step of determining.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7-11, 14-16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perri de Resende (US. 6,643,626) in view of Admitted Prior Art (APA).

4. **As to claim 1**, Resende teaches the invention substantially as claimed including point of sale (sales points, col 5, ln 1-67/ col 6, ln 34-67/ Fig. 1), a device programming system operable (several function such as inventory control, security, and marketing, col 4, ln 56-67/ the sale point of subsystem of the present invention can be implemented in ... software, col 6, ln 36-67), plurality of point sale (sales point 12C/ sales point 12 B, col 5, ln 1-35), a communications interface (the control center 14 provides several function, col 4, ln 56-67/col 5, ln 26-67/ Fig. 1), update request(a transaction report from each of the various point sale, col 5, ln 54-67), update (improve/ modification, col 5,ln 54-67), having proprietary operating systems from two or more different manufacturers(the sale point subsystem is implement as a software package, which can be adapted to run on different platforms and operating systems col 6, ln 54-67).

5. Resende does not explicit teach devices. However, APA teaches devices (device, page 2, ln 1-30).

6. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of APA and Resende because APA's device would maintains the reliability of electronic payment transactions.

7. **As to claim 2**, Resende teaches a device update file (the admin/maketing, update the inventory of a sales point, col 5, ln 53-67 to col 6, ln 1-10/ Fig. 1).

8. **As to claim 7**, Resende teaches a device setup system operable (the admin/maketing, update the inventory of a sales point, col 5, ln 53-67 to col 6, ln 1-10/ Fig. 1), a plurality of point of sale devices (the various sales points, col 5, ln 1-25).

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9. **As to claim 8**, Resende teaches provide configuration data updates (the modification of merchandise inventories / update the inventory of sales point, col 5, ln 54-67 to col 6, ln 1-5).
10. **As to claim 9**, Resende teaches a device analytical system operable performs troubleshooting (inventory control, security, and marketing, col 4, ln 56-67/ col 6, ln 1-35).
11. **As to claim 10**, it is apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above.
12. **As to claim 11**, Resende teaches a device setup command, a device update command, a polling command (a transaction reports, col 5, ln 52-67 to col 6, ln 1-10).
13. **As to claim 14**, Resende teaches two or more operation systems (different platform and operating systems, col 6, ln 50-67).
14. **As to claim 15**, Resende teaches a public switched telephone network (a switching assembly 120, col 6, ln 36-50/ Fig. 3).
15. **As to claim 16**, Resende teaches the Internet, a local network, a wide area network and a wireless network (an network 22, such as an Internet, PSTN, Intranet or other suitable communication network, col 5, ln 1-12).
16. **As to claim 21**, Resende teaches imposing configuration constraints on the template based the point of sale device (transaction reports for each of the various sales points 12 may be utilized by the control center for reevaluating market, col 5, ln 50-67/ col 6, ln 1-7), select the template (reevaluating market strategy, such as for improving sales..., col 5, ln 50-67/ col 6, ln 15-19).

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17. Resende do not explicit teaches credit card. However, APA teaches credit card (credit card, page 2, ln 5-8).

18. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Resende and APA because APA's credit card would provides a payment processing and the financial institution.

19. **As to claim 22**, Resende teaches a change in a business entity (the modification of merchandise inventories, col 5, ln 50-67), determining (predetermined, col 6, ln 1-10), modify of the template (the modification o merchandise inventories contained with each of the various sales points, col 6, ln 1-10), a telephone number, a list of allowable cards, a merchant number, an address, program modules, disabling program, enabling loyalty, disabling loyalty cart, enabling frequent buyer (sales, profit margins, etc, col 5, ln 53-67/ a telephone, a cordless telephone, a backup power supply, a notebook computer....., col 6, ln 36-67).

20. Claims **3, 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Perri de Resende (US. 6,643,626) in view of Admitted Prior Art (APA) and AN (IEE OPOS (USPOS)* Compatible Pole Display Software).

21. **As to claim 3**, Resende teach a device update file the modification of merchandise inventories / update the inventory of sales point (col 5, ln 54-67 to col 6, ln 1-5).

22. Resende and APA do not teach a class of point sale devices. However, AN teaches a class of point sale devices (a device class, section device class, page 1).

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23. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of Resende, APA and AN because AN's class device would provides an open device driver architecture that allow point of same hardware to easily integrated into POS systems.

24. **As to claim 12**, it is an apparatus claim of claim 3; therefore, it is rejected for the same reason as claim 3 above.

25. Claims **4, 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Perri de Resende (US. 6,643,626) in view of Admitted Prior Art (APA) and further in view of Rogge et al (US. 5,500,890).

26. **As to claim 4**, Resende and APA do not teach a polling system operable to poll each point of sale. However, Rogge teaches a polling system operable to poll each point of sale (the controller 24.... indicated polling, col 12, ln 15-51).

27. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of Resende, APA and Rogge because Rogge's polling would transfers data over the transaction approval network.

28. **As to claim 13**, it is an apparatus claim of claim 4; therefore, it is rejected for the same reason as claim 4 above.

29. Claim **17** is rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (APA) in view of Su (US. Patent 6,219,721 B1) and further in view of Coutts et al (US. Patent, 6,311,165 B1).

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30. As to claim 17, APA teaches one of the files (operating system software, application software, configuration data, and other suitable data and software, page 2, ln 5-32), a programming request (instruction received, page 2, ln 5-32), a corresponding device (the device, page 2, lines 5-32).

31. APA does not teach storing a file for each point of sale device, each file-containing device operating commands. However, Su teaches storing a file for each point of sale device, each file-containing device operating commands (different operation systems are installed in different peripheral access devices, different operating systems and the related settings and data files, col 4, ln 1-10/ col 3, ln 8-67).

32. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of APA and Su because Su's "different operation systems are installed in different peripheral access devices, different operating systems and the related settings and data files" would allow different peripheral devices to operate independently without causing an interference each other.

33. APA and Su do not explicit teach the term retrieving. However, Coutts teaches retrieving (retrieve all the information on that account from the server, col 51, ln 1-7).

26. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of APA, Su and Coutts because Coutts's retrieve would download the software from the server to the devices.

34. Claims 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (APA) in view of Su (US. Patent 6,219,721 B1) in view of Coutts et al (US. Patent, 6,311,165 B1) and further in view of Perri De Resende (6,643,626 B1).

35. **As to claim 18**, Su teaches two or more classes of file for the point of sale devices based upon the proprietary operating system (different operation systems are installed in different peripheral access devices, different operating systems and the related settings and data files, col 4, ln 1-10/ col 3, ln 8-67).

36. APA and Su do not teach one class of rules, applying the class of rules to the two or more classes of files. However, Resende teaches one class of rules, applying the class of rules to the two or more classes of files (the control center 24 provide several functions, such as inventory control, security and marketing with various functions preferably being facilitated by various departments, col 4, ln 56-67/ the control center for reevaluating market strategy, col 5, ln 52-67).

37. It would have been obvious to one of the ordinary skill in the art at the time invention was made to combine the teaching of APA, Su and Resende because Resende's "the control center 24 provide several functions, such as inventory control, security and marketing with various functions preferably being facilitated by various departments, col 4, ln 56-67/ the control center for reevaluating market strategy" would improve the implementing of business methods and devices.

38. **As to claim 19**, Scotts teach a point of sale device identifier (the peripheral's Mac address and a special "broadcast address"(col 22, ln 9-67), locating a data file associated with the point of sale device identifier (using this information the peripheral 364 can access the server 334 and download an operating system, col 22, ln 9-67).

39. **As to claim 20**, Scotts teaches receiving request from the point of sale device (a peripheral 364 being operate to transmit information to the server 334, col 21, ln 21-50).

Response to the argument

40. Applicant's amendments filed 5/15/2004 have been considered but they are not persuasive.

In the remarks, applicant argued (1) "The sale point unit 100 of Resende is not a point of sale system... Resende discloses a system where all sales point unit 100 include the same sales point subsystem. It is clear from the teaching of Resende that the various systems of the sales point unit 100 will not function different hardware platform and different operating system in absence of the point of sale system".

(2) "If examiner is going to accept the application's characterization to the prior art as including a definition of point of sale system that read credit card data from a credit card and then transmit that data to financial institutions".

(3) "Resende entirely fail to disclose that the sales point sub-system has such functionality "

(4) "Resende does not disclose that the sale point unit 100 can be manufactured by multiple manufacture".

(5) "the only thing received from the sales point units 100 is transaction report".

(6) "determining which of two of more operating systems is used by the point of sale device".

(7) "Su merely discloses storing different operating systems for a single device".

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41. Examiner respectfully traversed applicant's remarks:

As to point (1), Resende teaches pluralities of point of sale devices are a computer 108, printer 110, a telephone 114...(col 6, ln 41-43). This point of sale device having proprietary operating system from two or more different manufacture which can be adapted to run on different platforms and operating systems as being run on a computer 108, col 6, ln 60-65/different devices run any of a number of different platforms and operating system, col 7, ln 43-48). APA also teaches many manufactures of point sale devices. It is commonplace for each different manufacturer to have a different operating system for its point of sale device (page 2, ln 18-21).

As to point (2), "point of sale system that read credit card data from a credit card and then transmit that data to financial institutions" was not in claim 1. However, APA teaches a credit card (page 2, ln 5-8).

As to point (3), Resende teaches each of the point sales points 12 sent a transaction report to the control center (col 5, ln 56-60).

As to point (4), Resende teaches various components. Examples of such components may include a computer 108, a printer 110, and a telephone 112... (col 6, ln 37-43).

As to point (5), Resende teaches the transaction reports may be utilized by the control center for reevaluating market margins ... or modification of merchandise inventories (col 5, ln 59-67/ a predetermined inventory of merchandise based on sales of the individual sales points, col 6, ln 1-5). Each individual sales point has a different operating system (col 6, ln 63-65).

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As to point (5), The term determining which of two of more operating systems is used by the point of sale device was not clearly described in the specification". Examiner rejected based on the specification (page 24, ln 22-25) that identify device operating systems (col 5, ln 37-30/ col 6, ln 15-19).


As to point (6), Su teaches different operation systems are installed in different peripheral access devices, different operating systems and the related settings and data files, col 4, ln 1-10/ col 3, ln 8-67).

35. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).


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